

AMENDED IN ASSEMBLY SEPTEMBER 12, 1997

AMENDED IN ASSEMBLY SEPTEMBER 8, 1997

AMENDED IN ASSEMBLY AUGUST 29, 1997

AMENDED IN ASSEMBLY JULY 31, 1997

AMENDED IN ASSEMBLY JULY 11, 1997

AMENDED IN SENATE MAY 1, 1997

AMENDED IN SENATE APRIL 14, 1997

AMENDED IN SENATE MARCH 10, 1997

SENATE BILL

No. 247

Introduced by Senator Lockyer

(Principal coauthor: Assembly Member Villaraigosa)

(Coauthor: Assembly Member Washington)

February 4, 1997

An act to amend Section 102425 of the *Health and Safety Code*, to amend Section 19272 of, and to amend and renumber Section 19532 of, the *Revenue and Taxation Code*, and to amend Section 11475.1 of the *Welfare and Institutions Code*, relating to support.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as amended, Lockyer. Collection of child support.

Existing law requires a district attorney to take appropriate action to establish, modify, and enforce child support orders when the child is receiving public assistance, and when

appropriate, to take the same actions on behalf of a child who is not receiving public assistance. Under existing law, the district attorney may refer child support delinquencies to the Franchise Tax Board for collection and is required to receive credit for no less than 50% of the amount collected.

This bill would require a district attorney enforcing child support obligations to refer all child support delinquencies to the Franchise Tax Board for collection. The bill would also require the district attorney to utilize the collection services of the Franchise Tax Board, as specified. The bill would impose a state-mandated local program by requiring a new duty of district attorneys. The bill would provide that the district attorney would receive credit for the amount collected when a referral is made.

Existing law requires amounts collected by the Franchise Tax Board to be applied to debts in a specified order.

This bill would provide that a voluntary payment by an obligated parent for a child support delinquency would be applied solely to the child support delinquency.

Existing law specifies information to be contained within a certificate of live birth.

This bill would make technical, nonsubstantive changes to this provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would provide that it shall become operative only if AB 573 and AB 1395 are enacted and become effective on or before January 1, 1998.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 102425 of the Health and Safety*
- 2 *Code is amended to read:*

1 102425. (a) The certificate of live birth for any live
2 birth occurring on or after January 1, 1980, shall contain
3 those items necessary to establish the fact of the birth and
4 shall contain only the following information:

5 (1) Full name and sex of child.

6 (2) Date of birth, including month, day, hour, and
7 year.

8 (3) Planned place of birth and place of birth.

9 (4) Full name of *the* father, birthplace, and date of
10 birth of *the* father including month, day, and year. If the
11 parents are not married to each other, the father's name
12 shall not be listed on the birth certificate unless the father
13 and the mother sign a voluntary declaration of paternity
14 at the hospital before the birth certificate is prepared.
15 The birth certificate may be amended to add the father's
16 name at a later date only if paternity for the child has been
17 established by a judgment of a court of competent
18 jurisdiction or by the filing of a voluntary declaration of
19 paternity.

20 (5) Full birth name of *the* mother, birthplace, and date
21 of birth of *the* mother including month, day, and year.

22 (6) Multiple births and birth order of multiple births.

23 (7) Signature, and relationship to child, of a parent or
24 other informant, and date signed.

25 (8) Name, title, and mailing address of attending
26 physician and surgeon or principal attendant, signature,
27 and certification of live birth by attending physician and
28 surgeon or principal attendant or certifier, date signed,
29 and name and title of certifier if other than attending
30 physician and surgeon or principal attendant.

31 (9) Date accepted for registration and signature of
32 local registrar.

33 (10) A state birth certificate number and local
34 registration district and number.

35 (11) A blank space for entry of date of death with a
36 caption reading "Date of Death."

37 (b) In addition to the items listed in subdivision (a),
38 the certificate of live birth shall contain the following
39 medical and social information, provided that the
40 information is kept confidential pursuant to Sections

1 102430 and 102447 and is clearly labeled “Confidential
2 Information for Public Health Use Only:”

3 (1) Birth weight.

4 (2) Pregnancy history.

5 (3) Race and ethnicity of *the* mother and father.

6 (4) Residence address of *the* mother.

7 (5) A blank space for entry of census tract for *the*
8 mother’s address.

9 (6) Month prenatal care began and number of
10 prenatal visits.

11 (7) Date of last normal menses.

12 (8) Description of complications of pregnancy and
13 concurrent illnesses, congenital malformation, and any
14 complication of labor and delivery, including surgery;
15 provided that this information is essential medical
16 information and appears in total on the face of the
17 certificate.

18 (9) Mother’s and father’s occupations and kind of
19 business or industry.

20 (10) Education level of mother and father.

21 (11) Principal source of pay for prenatal care, which
22 shall include all of the following: Medi-Cal, health
23 maintenance organization or prepaid health plan, private
24 insurance companies, medically indigent, self-pay, other
25 sources which shall include, Medicare, workers’
26 compensation, Title V, other government or
27 nongovernment programs, no charge, and other
28 categories as determined by the State Department of
29 Health Services.

30 This paragraph shall become inoperative on January 1,
31 1999, or on the implementation date of the decennial
32 birth certificate revision due to occur on or about January
33 1, 1999, whichever occurs first.

34 (12) Expected principal source of pay for delivery,
35 which shall include all of the following: Medi-Cal, health
36 maintenance organization or prepaid health plan, private
37 insurance companies, medically indigent, self-pay, other
38 sources which shall include, Medicare, workers’
39 compensation, Title V, other government or
40 nongovernment programs, no charge, and other

1 categories as determined by the State Department of
2 Health Services.

3 This paragraph shall become inoperative on January 1,
4 1999, or on the implementation date of the decennial
5 birth certificate revision due to occur on or about January
6 1, 1999, whichever occurs first.

7 (13) An indication of whether or not the child's parent
8 desires the automatic issuance of a Social Security
9 number to the child.

10 (14) On and after January 1, 1995, the Social Security
11 numbers of the mother and father, unless subdivision (b)
12 of Section 102150 applies.

13 (c) Item 8, specified in subdivision (b), shall be
14 completed by the attending physician and surgeon or the
15 attending physician's and surgeon's designated
16 representative. The names and addresses of children
17 born with congenital malformations, who require
18 followup treatment, as determined by the child's
19 physician and surgeon, shall be furnished by the physician
20 and surgeon to the local health officer, if permission is
21 granted by either parent of the child.

22 (d) The parent shall only be asked to sign the form
23 after both the public portion and the confidential medical
24 and social information items have been entered upon the
25 certificate of live birth.

26 (e) The State Registrar shall instruct all local registrars
27 to collect the information specified in this section with
28 respect to certificates of live birth. The information shall
29 be transcribed on the certificate of live birth in use at the
30 time and shall be limited to the information specified in
31 this section.

32 Information relating to concurrent illnesses,
33 complications of pregnancy and delivery, and congenital
34 malformations shall be completed by the physician and
35 surgeon, or physician's and surgeon's designee, inserting
36 in the space provided on the confidential portion of the
37 certificate the appropriate number or numbers listed on
38 the VS-10A supplemental worksheet. The VS-10A
39 supplemental form shall be used as a worksheet only and
40 shall not in any manner be linked with the identity of the

1 child or the mother, nor submitted with the certificate to
2 the State Registrar. All information transferred from the
3 worksheet to the certificate shall be fully explained to the
4 parent or other informant prior to the signing of the
5 certificate. No questions relating to drug or alcohol abuse
6 may be asked.

7 (f) If the implementation date of the decennial birth
8 certificate revision occurs prior to January 1, 1999, within
9 30 days of this implementation date the State
10 Department of Health Services shall file a letter with the
11 Secretary of the Senate and with the Chief Clerk of the
12 Assembly, so certifying.

13 *SEC. 2.* Section 19272 of the Revenue and Taxation
14 Code is amended to read:

15 19272. (a) Any child support delinquency collected
16 by the Franchise Tax Board, including those amounts that
17 result in overpayment of a child support delinquency,
18 shall be deposited in the State Treasury, after clearance
19 of the remittance, to the credit of the Special Deposit
20 Fund and distributed as specified by interagency
21 agreement executed by the Franchise Tax Board and the
22 State Department of Social Services, with the
23 concurrence of the Controller. Notwithstanding Section
24 13340 of the Government Code, all moneys deposited in
25 the Special Deposit Fund pursuant to this article are
26 hereby continuously appropriated, without regard to
27 fiscal years, for purposes of making distributions.

28 (b) When a child support delinquency, or any portion
29 thereof, has been collected by the Franchise Tax Board
30 pursuant to this article, the district attorney shall be
31 notified that the delinquency or some portion thereof has
32 been collected and shall be provided any other necessary
33 relevant information requested.

34 (c) The referring county district attorney shall receive
35 credit for the amount of collections made pursuant to the
36 referral, and shall receive the applicable child support
37 enforcement incentives pursuant to Section 15200.85 of
38 the Welfare and Institutions Code. Collection costs
39 incurred by the Franchise Tax Board shall be paid by

1 federal reimbursement with any balance to be paid from
2 the General Fund.

3 ~~SEC. 2.~~

4 *SEC. 3.* Section 19532 of the Revenue and Taxation
5 Code, as amended by Chapter 1001 of the Statutes of 1996,
6 is amended and renumbered to read:

7 19533. In the event the debtor has more than one debt
8 being collected by the Franchise Tax Board and the
9 amount collected by the Franchise Tax Board is
10 insufficient to satisfy the total amount owing, the amount
11 collected shall be applied in the following priority:

12 (a) Payment of any taxes, additions to tax, penalties,
13 interest, fees, or other amounts due and payable under
14 Part 7.5 (commencing with Section 13201), Part 10
15 (commencing with Section 17001), Part 11 (commencing
16 with Section 23001), or this part.

17 (b) Payment of any debts referred for collection under
18 Article 5 (commencing with Section 19271) of Chapter 5.

19 (c) Payment of delinquent wages collected pursuant
20 to the Labor Code.

21 (d) Payment of delinquencies collected under Section
22 10878.

23 (e) Payment of any amounts due that are referred for
24 collection under Article 6 (commencing with Section
25 19280) of Chapter 5.

26 (f) Payment of any amounts that are referred for
27 collection pursuant to Section 62.9 of the Labor Code.

28 (g) Payment of delinquent penalties collected for the
29 Department of Industrial Relations pursuant to the Labor
30 Code.

31 (h) Payment of delinquent fees collected for the
32 Department of Industrial Relations pursuant to the Labor
33 Code.

34 (i) Payment of delinquencies referred by the Student
35 Aid Commission pursuant to Section 16583.5 of the
36 Government Code.

37 (j) Notwithstanding the payment priority established
38 by this section, voluntary payments made by an obligated
39 parent for a child support obligation pursuant to
40 subparagraph (B) of paragraph (1) of subdivision (b) of

1 Section 19271 shall not be applied pursuant to this priority
2 but shall instead be applied solely to the child support
3 obligation for which the voluntary payment was made.

4 ~~SEC. 3.~~

5 SEC. 4. Section 11475.1 of the Welfare and Institutions
6 Code is amended to read:

7 11475.1. (a) Each county shall maintain a single
8 organizational unit located in the office of the district
9 attorney which shall have the responsibility for promptly
10 and effectively establishing, modifying, and enforcing
11 child support obligations, including medical support,
12 enforcing spousal support orders established by a court of
13 competent jurisdiction, and determining paternity in the
14 case of a child born out of wedlock. The district attorney
15 shall take appropriate action, both civil and criminal, to
16 establish, modify, and enforce child support and, when
17 appropriate, enforce spousal support orders when the
18 child is receiving public assistance, including Medi-Cal,
19 and, when appropriate, may take the same actions on
20 behalf of a child who is not receiving public assistance,
21 including Medi-Cal. The district attorney shall refer all
22 child support delinquencies to the Franchise Tax Board
23 pursuant to Section 19271 of the Revenue and Taxation
24 Code.

25 (b) Actions brought by the district attorney to
26 establish paternity or child support or to enforce child
27 support obligations shall be completed within the time
28 limits set forth by federal law. The district attorney's
29 responsibility applies to spousal support only where the
30 spousal support obligation has been reduced to an order
31 of a court of competent jurisdiction. In any action brought
32 for modification or revocation of an order that is being
33 enforced under Title IV-D of the Social Security Act (42
34 U.S.C. Sec. 651 et seq.), the effective date of the
35 modification or revocation shall be as prescribed by
36 federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent
37 date.

38 (c) (1) The Judicial Council, in consultation with the
39 department and representatives of the California Family
40 Support Council, the Senate Committee on Judiciary, the

1 Assembly Committee on Judiciary, and a legal services
2 organization providing representation on child support
3 matters, shall develop simplified summons, complaint,
4 and answer forms for any action for support brought
5 pursuant to this section or Section 11350.1. The Judicial
6 Council may combine the summons and complaint in a
7 single form.

8 (2) The simplified complaint form shall provide the
9 defendant with notice of the amount of child support that
10 is sought pursuant to the guidelines set forth in Article 2
11 (commencing with Section 4050) of Chapter 2 of Part 2
12 of the Family Code based upon the income or income
13 history of the defendant as known to the district attorney.
14 If the defendant's income or income history is unknown
15 to the district attorney, the complaint shall inform the
16 defendant that income shall be presumed in an amount
17 that results in a court order equal to the minimum basic
18 standard of adequate care provided in Section 11452
19 unless information concerning the defendant's income is
20 provided to the court. The complaint form shall be
21 accompanied by a proposed judgment. The complaint
22 form shall include a notice to the defendant that the
23 proposed judgment will become effective if he or she fails
24 to file an answer with the court within 30 days of service.

25 (3) (A) The simplified answer form shall be written in
26 simple English and shall permit a defendant to answer
27 and raise defenses by checking applicable boxes. The
28 answer form shall include instructions for completion of
29 the form and instructions for proper filing of the answer.

30 (B) The answer form shall be accompanied by a blank
31 income and expense declaration or simplified financial
32 statement and instructions on how to complete the
33 financial forms. The answer form shall direct the
34 defendant to file the completed income and expense
35 declaration or simplified financial statement with the
36 answer, but shall state that the answer will be accepted
37 by a court without the income and expense declaration or
38 simplified financial statement.

39 (C) The clerk of the court shall accept and file
40 answers, income and expense declarations, and simplified

1 financial statements that are completed by hand
2 provided they are legible.

3 (4) (A) The simplified complaint form prepared
4 pursuant to this subdivision shall be used by the district
5 attorney or the Attorney General in all cases brought
6 under this section or Section 11350.1.

7 (B) The simplified answer form prepared pursuant to
8 this subdivision shall be served on all defendants with the
9 simplified complaint. Failure to serve the simplified
10 answer form on all defendants shall not invalidate any
11 judgment obtained. However, failure to serve the answer
12 form may be used as evidence in any proceeding under
13 Section 11356 of this code or Section 473 of the Code of
14 Civil Procedure.

15 (C) The Judicial Council shall add language to the
16 governmental summons, for use by the district attorney
17 with the governmental complaint to establish parental
18 relationship and child support, informing defendants that
19 a blank answer form should have been received with the
20 summons and additional copies may be obtained from
21 either the district attorney's office or the superior court
22 clerk.

23 (d) In any action brought or enforcement proceedings
24 instituted by the district attorney pursuant to this section
25 for payment of child or spousal support, an action to
26 recover an arrearage in support payments may be
27 maintained by the district attorney at any time within the
28 period otherwise specified for the enforcement of a
29 support judgment, notwithstanding the fact that the child
30 has attained the age of majority.

31 (e) The county shall undertake an outreach program
32 to inform the public that the services described in
33 subdivisions (a) to (c), inclusive, are available to persons
34 not receiving public assistance. There shall be
35 prominently displayed in every public area of every office
36 of the units established by this section a notice, in clear
37 and simple language prescribed by the Director of Social
38 Services, that the services provided in subdivisions (a) to
39 (c), inclusive, are provided to all individuals whether or
40 not they are recipients of public social services.

1 (f) In any action to establish a child support order
2 brought by the district attorney in the performance of
3 duties under this section, the district attorney may make
4 a motion for an order effective during the pendency of
5 that action, for the support, maintenance, and education
6 of the child or children that are the subject of the action.
7 This order shall be referred to as an order for temporary
8 support. This order shall have the same force and effect
9 as a like or similar order under the Family Code.

10 The district attorney shall file a motion for an order for
11 temporary support within the following time limits:

12 (1) If the defendant is the mother, a presumed father
13 under Section 7611 of the Family Code, or any father
14 where the child is at least six months old when the
15 defendant files his answer, the time limit is 90 days after
16 the defendant files an answer.

17 (2) In any other case where the defendant has filed an
18 answer prior to the birth of the child or not more than six
19 months after the birth of the child, then the time limit is
20 nine months after the birth of the child.

21 If more than one child is the subject of the action, the
22 limitation on reimbursement shall apply only as to those
23 children whose parental relationship and age would bar
24 recovery were a separate action brought for support of
25 that child or those children.

26 If the district attorney fails to file a motion for an order
27 for temporary support within time limits specified in this
28 section, the district attorney shall be barred from
29 obtaining a judgment of reimbursement for any support
30 provided for that child during the period between the
31 date the time limit expired and the motion was filed, or,
32 if no such motion is filed, when a final judgment is
33 entered.

34 Nothing in this section prohibits the district attorney
35 from entering into cooperative arrangements with other
36 county departments as necessary to carry out the
37 responsibilities imposed by this section pursuant to plans
38 of cooperation with the departments approved by the
39 State Department of Social Services.

1 Nothing in this section shall otherwise limit the ability
2 of the district attorney from securing and enforcing
3 orders for support of a spouse or former spouse as
4 authorized under any other provision of law.

5 (g) As used in this article, “enforcing obligations”
6 includes, but is not limited to, (1) the use of all
7 interception and notification systems operated by the
8 State Department of Social Services for the purposes of
9 aiding in the enforcement of support obligations, (2) the
10 obtaining by the district attorney of an initial order for
11 child support, which may include medical support or
12 which is for medical support only, by civil or criminal
13 process, (3) the initiation of a motion or order to show
14 cause to increase an existing child support order, and the
15 response to a motion or order to show cause brought by
16 an obligor parent to decrease an existing child support
17 order, or the initiation of a motion or order to show cause
18 to obtain an order for medical support, and the response
19 to a motion or order to show cause brought by an obligor
20 parent to decrease or terminate an existing medical
21 support order, without regard to whether the child is
22 receiving public assistance, (4) the response to a notice
23 of motion or order to show cause brought by an obligor
24 parent to decrease an existing spousal support order
25 when the child or children are residing with the obligee
26 parent and the district attorney is also enforcing a related
27 child support obligation owed to the obligee parent by
28 the same obligor, and (5) the use of the collection services
29 of the Franchise Tax Board to enforce the collection of
30 child support delinquencies under Section 19271 of the
31 Revenue and Taxation Code.

32 (h) As used in this section, “out of wedlock” means
33 that the biological parents of the child were not married
34 to each other at the time of the child’s conception.

35 (i) The district attorney is the public agency
36 responsible for administering wage withholding for the
37 purposes of Title IV-D of the Social Security Act (42
38 U.S.C. Sec. 651 et seq.). Notwithstanding any other law,
39 the district attorney shall utilize the collection services of

1 the Franchise Tax Board under Section 19271 of the
2 Revenue and Taxation Code.

3 Nothing in this section shall limit the authority of the
4 district attorney granted by other sections of this code or
5 otherwise granted by law, except to the extent that the
6 law is inconsistent with the requirement to refer child
7 support delinquencies to the Franchise Tax Board for
8 collection pursuant to Section 19271 of the Revenue and
9 Taxation Code.

10 (j) In the exercise of the authority granted under this
11 article, the district attorney may intervene, pursuant to
12 subdivision (b) of Section 387 of the Code of Civil
13 Procedure, by ex parte application, in any action under
14 the Family Code, or other proceeding wherein child
15 support is an issue or a reduction in spousal support is
16 sought. By notice of motion, order to show cause, or
17 responsive pleading served upon all parties to the action,
18 the district attorney may request such relief as
19 appropriate which the district attorney is authorized to
20 seek.

21 (k) The district attorney shall comply with any
22 guidelines established by the State Department of Social
23 Services which set time standards for responding to
24 requests for assistance in locating absent parents,
25 establishing paternity, establishing child support awards,
26 and collecting child support payments.

27 (l) As used in this article, medical support activities
28 which the district attorney is authorized to perform are
29 limited to the following:

30 (1) The obtaining and enforcing of court orders for
31 health insurance coverage.

32 (2) Any other medical support activity mandated by
33 federal law or regulation.

34 (m) (1) Notwithstanding any other provision of law,
35 venue for an action or proceeding under this part shall be
36 determined as follows:

37 (A) Venue shall be in the superior court in the county
38 that is currently expending public assistance.

39 (B) If public assistance is not currently being
40 expended, venue shall be in the superior court in the

1 county where the child who is entitled to current support
2 resides or is domiciled.

3 (C) If current support is no longer payable through, or
4 enforceable by, the district attorney, venue shall be in the
5 superior court in the county that last provided public
6 assistance for actions to enforce arrearages assigned
7 pursuant to Section 11477.

8 (D) If subparagraphs (A), (B), and (C) do not apply,
9 venue shall be in the superior court in the county of
10 residence of the support obligee.

11 (E) If the support obligee does not reside in California,
12 and subparagraphs (A), (B), (C), and (D) do not apply,
13 venue shall be in the superior court of the county of
14 residence of the obligor.

15 (2) Notwithstanding paragraph (1), if the child
16 becomes a resident of another county after an action
17 under this part has been filed, venue may remain in the
18 county where the action was filed until the action is
19 completed.

20 (n) The district attorney of one county may appear on
21 behalf of the district attorney of any other county in an
22 action or proceeding under this part.

23 ~~SEC. 4.~~

24 *SEC. 5.* No reimbursement is required by this act
25 pursuant to Section 6 of Article XIII B of the California
26 Constitution because this act provides for offsetting
27 savings to local agencies or school districts that result in
28 no net costs to the local agencies or school districts, within
29 the meaning of Section 17556 of the Government Code.

30 Notwithstanding Section 17580 of the Government
31 Code, unless otherwise specified, the provisions of this act
32 shall become operative on the same date that the act
33 takes effect pursuant to the California Constitution.

34 ~~SEC. 5.~~

35 *SEC. 6.* This act shall become operative only if
36 Assembly Bill 573 and Assembly Bill 1395, both of the
37 1997–98 Regular Session, are enacted and become
38 effective on or before January 1, 1998.

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